

111TH CONGRESS
1ST SESSION

S. 1008

To amend title 10, United States Code, to limit recoupments of separation pay, special separation benefits, and voluntary separation incentive from members of the Armed Forces subsequently receiving retired or retainer pay.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2009

Mrs. SHAHEEN (for herself and Mr. GREGG) introduced the following bill;
which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to limit recoupments of separation pay, special separation benefits, and voluntary separation incentive from members of the Armed Forces subsequently receiving retired or retainer pay.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Retired Pay
5 Fairness Act of 2009”.

1 **SEC. 2. LIMITATIONS ON RECOUPMENT OF SEPARATION**
 2 **PAY, SPECIAL SEPARATION BENEFITS, AND**
 3 **VOLUNTARY SEPARATION INCENTIVE FROM**
 4 **MEMBERS SUBSEQUENTLY RECEIVING RE-**
 5 **TIRED OR RETAINER PAY.**

6 (a) SEPARATION PAY AND SPECIAL SEPARATION
 7 BENEFITS.—Section 1174(h)(1) of title 10, United States
 8 Code, is amended—

9 (1) by inserting “(A)” after “(1)”;

10 (2) in subparagraph (A), as so designated, by
 11 striking “so much of such pay as is based on the
 12 service for which he received separation pay under
 13 this section or separation pay, severance pay, or re-
 14 adjustment pay under any other provision of law”
 15 and inserting “an amount, in such schedule of
 16 monthly installments as the Secretary of Defense
 17 shall specify taking into account the financial ability
 18 of the member to pay and avoiding the imposition of
 19 undue financial hardship on the member and mem-
 20 ber’s dependents,”; and

21 (3) by adding at the end the following new sub-
 22 paragraphs:

23 “(B) The amount deducted under subparagraph (A)
 24 from a payment of retired or retainer pay may not exceed
 25 25 percent of the amount of the member’s retired or re-
 26 tainer pay for that month unless the member requests or

1 consents to deductions at an accelerated rate. The Sec-
 2 retary concerned shall consult with the member regarding
 3 the repayment rate to be imposed, taking into account the
 4 financial ability of the member to pay and avoiding the
 5 imposition of an undue hardship on the member and the
 6 member's dependents.

7 “(C) The deduction of amounts from the retired or
 8 retainer pay of a member under this paragraph may not
 9 commence until the date that is 90 days after the date
 10 on which the Secretary concerned notifies the member of
 11 the deduction of such amounts under this paragraph. Any
 12 notice under this subparagraph shall be designed to pro-
 13 vide clear and comprehensive information on the deduction
 14 of amounts under this paragraph, including information
 15 on the determination of the amount and period of install-
 16 ments under this paragraph.

17 “(D) The Secretary concerned may waive the deduc-
 18 tion of amounts from the retired or retainer pay of a mem-
 19 ber under this paragraph if the Secretary determines that
 20 deduction of such amounts would result in a financial
 21 hardship for the member.”.

22 (b) VOLUNTARY SEPARATION INCENTIVE.—Section
 23 1175(e)(3) of such title is amended—

24 (1) in subparagraph (A), by striking “so much
 25 of such pay as is based on the service for which he

1 received the voluntary separation incentive” and in-
2 serting “an amount, in such schedule of monthly in-
3 stallments as the Secretary of Defense shall specify
4 taking into account the financial ability of the mem-
5 ber to pay and avoiding the imposition of undue fi-
6 nancial hardship on the member and member’s de-
7 pendants,”;

8 (2) by redesignating subparagraph (B) as sub-
9 paragraph (C);

10 (3) by inserting after subparagraph (A) the fol-
11 lowing new subparagraph:

12 “(B) The amount deducted under subparagraph (A)
13 from a payment of retired or retainer pay may not exceed
14 25 percent of the amount of the member’s retired or re-
15 tainer pay for that month unless the member requests or
16 consents to deductions at an accelerated rate. The Sec-
17 retary concerned shall consult with the member regarding
18 the repayment rate to be imposed, taking into account the
19 financial ability of the member to pay and avoiding the
20 imposition of an undue hardship on the member and the
21 member’s dependents.”; and

22 (4) by adding at the end the following new sub-
23 paragraphs:

24 “(D) The deduction of amounts from the retired or
25 retainer pay of a member under this paragraph may not

1 commence until the date that is 90 days after the date
2 on which the Secretary concerned notifies the member of
3 the deduction of such amounts under this paragraph. Any
4 notice under this subparagraph shall be designed to pro-
5 vide clear and comprehensive information on the deduction
6 of amounts under this paragraph, including information
7 on the determination of the amount and period of install-
8 ments under this paragraph.

9 “(E) The Secretary concerned may waive the deduc-
10 tion of amounts from the retired or retainer pay of a mem-
11 ber under this paragraph if the Secretary determines that
12 deduction of such amounts would result in a financial
13 hardship for the member.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the first day of the first
16 month beginning on or after the date of the enactment
17 of this Act and apply to deductions made from the retired
18 or retainer pay of members of the uniformed services for
19 that month and subsequent months.

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